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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No._____

TO THE

Supreme Court of the United States

AT WASHINGTON, D.C.

Pedro Iván Rivera,
Petitioner per se

v.

Sam L. Pratt, Warden or successor,
Respondent

PETITION FOR WRIT OF HABEAS CORPUS

(Rule 20.4)

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14 pp

QUESTIONS PRESENTED

Understanding that the *questions presented* pleading requirement contained in Rule 14.1(a) pertains to petitions for writ of certiorari, this statement of *questions presented* is submitted **under protest**. This is a petition for writ of habeas corpus, not for a writ of certiorari. However, this court has twice refused to docket my case for lack of a *questions presented* statement, so here it is, **under protest**.

The respondent held me prisoner against my will and without my consent or assent from September 11, 2001 to December 17, 2001. He did so without a warrant of commitment or detainer. I am blocked from working at my trade as an anesthesiologist as a collateral consequence of the illegal conviction underlying my false imprisonment by the respondent, as explained more fully in this petition. Therefore, the question presented is:

Whether the conviction that led to my false imprisonment by the respondent was legal or not and, if so, Why am I still being punished beyond the term of my sentence by not being allowed to work?

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

INTRODUCTION 1

PARTIES 1

JURISDICTION 2

FACTS 3

ARGUMENT 5

PRAYER 12

VERIFICATION 12

TABLE OF AUTHORITIES

Cases

Carafas v. *Lavallee*, 391 U.S. 234 (1968) 6
Flemming v. *Nestor*, 363 U.S. 603 (1960) 5
Hooven & Allison Co. v. *Evatt*, 324 U.S. 652 (1945) 7
Sibron v. *New York*, 392 U.S. 40 (1968) 6

Statutes

Citizens' Rights Act, July 27, 1868 A.D., ch. 249, 15 Stat. 223 2
District of Columbia Code § 16-1901 ..... 7, 8, 9
District of Columbia Code § 16-1905 ..... 2, 3, 9
Title 28 United States Code § 124 ..... 1, 3
Title 28 United States Code § 2241 ..... 8, 10

Other Authorities

District of Columbia Code General Index 1, 3
Oxford's English Dictionary, 2nd Edition 2
Transcripts of December 17, 2001 A.D. hearing 6

Rules

Federal Rules of Evidence Rule 201(d) 9
Rules of the Supreme Court Rule 20.4 .... 1, 5, 10, 11, 12

Constitutional Provisions

The compact styled "The Constitution of the United States of America", Art. I sec. 9 cl. 3 6
The compact styled "The Constitution of the United States of America", Art. III sec. 2 2

INTRODUCTION

I, Pedro Iván Rivera, am the petitioner per se in this case, the victim of certain disabilities and burdens that continue to flow from the false conviction imposed upon me by United States District Judge Joe Kendall and executed by the above-named respondent. I petition this court for a writ of habeas corpus as described in Rules of the Supreme Court Rule 20.4 on the following grounds:

PARTIES

The respondent is Sam L. Pratt or his successor, the Warden of the Federal Correctional Institution located within the District[1] at 2113 North Highway 175, Seagoville, TX 75159, and a Federal officer and employee;

I am the petitioner for the writ of habeas corpus (Rule 20.4) in this case. It is my signature that appears near the end of this petition. I am a natural born citizen of the republican form of government known as the united States of America, also a U.S. Citizen at birth by force of statute, now with said U.S. Citizenship relinquished by my voluntary act of expatriation recorded at the County Court of Dallas county, Texas, as record number 1377655, effective nunc pro tunc. On that basis, I claim the capacity to seek remedy in this court for the abrogation of my

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[1] The word "district" means any federal judicial district other than the District of Columbia. See Defined Terms, D.C. Code General Index. Accordingly, Seagoville, TX 75159 is such a district – See Title 28 United States Code § 124

rights of liberty and the pursuit of happiness, the right of expatriation being indispensable to the enjoyment thereof[2].

JURISDICTION

The source of my rights of liberty and the pursuit of happiness is Nature's God;

The source of my right of action in this case is the unanimous Declaration of the thirteen United States of America[3], the compact styled "The Constitution of the United States of America"[4], and the District of Columbia Code (hereinafter 'D.C. Code') § 16-1905 which states in relevant part:

"A person committed or detained, or a person in his behalf, may demand[5] a true copy of the warrant of commitment or detainer."

This court has jurisdiction to hear this case pursuant to Article III sec. 2 of the compact styled "The Constitution of the United States of America"

No rights claimed in this petition have as their source the United States Congress;

My cause of action arises from the following

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[2] Citizens' Rights Act, July 27, 1868 A.D., ch. 249, 15 Stat. 223

[3] Action of Second Continental Congress, July 4, 1776 A.D.

[4] Ratified in 1789 A.D., amended in 1791 A.D.

[5] An act of demanding or asking by virtue of right or authority; an authoritative or peremptory request or claim. Oxford's English Dictionary, 2nd Edition

FACTS

On September 10, 2001 A.D., I was kidnapped by the United States Marshals Service and forcefully placed into the custody of the respondent;

I was held prisoner against my will and without my consent or assent at F.C.I. Seagoville, located within the District[6] at 2113 North Highway 175, Seagoville, TX 75159;

On October 15, 2001 A.D., I presented the respondent with a demand pursuant to D.C. Code § 16-1905 for a true copy of his warrant of commitment or detainer to hold me prisoner;

On October 30, 2001 A.D., the respondent answered my § 16-1905 demand as follows:

> "Our records indicate the United States Marshals Service transported you to the Federal Detention Center, Seagoville, on September 11, 2001. The U.S. Marshals have detained you pending Court proceedings for violating the terms of your Supervised Released [grammatical error in the original]. Copies of these warrants may be obtained by contacting the U.S. Marshals Service at 1100 Commerce Street, Room 16G38A, Dallas, Texas, 75242.

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[6] The word "district" means any federal judicial district other than the District of Columbia. See Defined Terms, D.C. Code General Index. Accordingly, Seagoville, TX is such a district – See Title 28 United States Code § 124

s/Sam L. Pratt 10/30/01"

I received the respondent's answer on November 7, 2001 A.D.;

On December 17, 2001 A.D., I was taken to United States District Judge Joe Kendall's Court at Dallas, Texas, where my sentence was pronounced "over" and I was released later that same day;

To the present date, the respondent has refused or neglected to provide me with a true copy of his warrant of commitment or detainer to have held me prisoner against my will and without my consent or assent for the period of time from September 11, 2001 A.D. to December 17, 2001 A.D.;

Citing the underlying conviction at issue in this petition and further citing it as evidence that I had committed a "crime of moral turpitude", the Texas State Board of Medical Examiners revoked my license to practice medicine in the State of Texas. Citing the revocation of my license by said Board, the [United States] Office of Inspector General placed my name on the Medicare Exclusion Database that it maintains on the Internet. Citing the inclusion of my name on the Medicare Exclusion Database, Louisiana State University denied me an assistant clinical professor staff position for which I was otherwise qualified. Furthermore, I was unable to accept a job offer with a private anesthesiology group in Texas due to the Board's revocation of my license to practice medicine in the State of Texas;

Since my release on December 17, 2001 A.D., I have been disabled to work in my professional trade,

anesthesiology, by the revocation of my license to practice medicine in the State of Texas;

ARGUMENT

While rarely granted, the writ of habeas corpus (Rule 20.4) that I hereby make petition for should be granted in order to address the miscarriage of justice that would result otherwise, to wit:

The miscarriage of justice described by this court in *Flemming* v. *Nestor*, 363 U.S. 603 (1960) in the following words:

> ". . . By smiting a man day after day with slanderous words, by taking away his opportunity to earn a living, you can drain the blood from his veins without even scratching his skin.
> "Today's bill of attainder is broader than the classic form, and not so tall and sharp. There is mental in place of physical torture, and confiscation of tomorrow's bread and butter instead of yesterday's land and gold. What is perfectly clear is that hate, fear and prejudice play the same role today, in the destruction of human rights in America that they did in England when a frenzied mob of lords, judges, bishops and shoemakers turned the Titus Oates blacklist into a hangman's record. Hate, jealousy and spite continue to fill the legislative attainder lists just as they did in the Irish

> Parliament of ex-King James." [363 U.S. 603, 630]

Despite the words of United States District Judge Joe Kendall at the December 17, 2001 A.D. hearing in which he ordered my release, "You've been punished plenty"[7] and "Today his sentence is over"[8], in reality, I continue to be punished above and beyond the sentence imposed by the Kendall Court. The taking away of my opportunity to work and the slander of having committed a "crime of moral turpitude" constitute a modern form of bill of attainder imposed by the Texas State Board of Medical Examiners acting in collaboration with the [United States] Office of Inspector General, according to the description given by this court in the *Flemming* case quoted above. The imposition of such disability by agencies of Government acting together against me is not only manifestly unconscionable, it yields an unconstitutional result: Bills of attainder are strictly prohibited by law[9].

Consistent with this court's rulings in *Carafas* v. *Lavallee*, 391 U.S. 234 (1968) and *Sibron* v. *New York*, 392 U.S. 40 (1968), this petition is not mooted by the fact that I have been released from prison. The abrogation of my unalienable rights to liberty and to the pursuit of happiness as manifest in my right to work as an anesthesiologist certainly qualifies as "collateral consequences" of such a magnitude as

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[7] Transcripts page 3 line 3

[8] Transcripts page 4 line 7

[9] The compact styled "The Constitution of the United States of America", Art. I sec. 9 cl. 3.

those addressed in the *Carafas* and *Sibron* cases cited *supra*.

So, why seek relief in this particular court? Briefly, because I seek the application of the judicial power of the United States[10] to the facts of my case in defense of my unalienable rights to liberty and the pursuit of happiness, and the lower courts refuse to honor my claim to said rights, attempting instead to place me under the municipal code of the U.S. Congress in derogation of my right of expatriation and my exercise thereof.

In accordance with D.C. Code § 16-1901 (a)& (b), this case should have been heard in the United States District Court for the District of Columbia. Of course, I presented my petition there first, while yet imprisoned at F.C.I. Seagoville, TX 75159, back in October of 2001 A.D. I presented facts establishing the prima facie case that my confinement was illegal and improper as required by D.C. Code § 16-1901 (a) in order for the writ of habeas corpus to issue. I showed the district court that the respondent refused or neglected to provide me with a true copy of his warrant of commitment or detainer to hold me prisoner. My petition for writ of habeas corpus was ignored by the district court for over two months. After my release, I telephoned the district court to inquire about the status of my petition; I was told that there was no record of my petition ever having been filed. Naturally, I have the proofs of mailing and receipt that correspond to two submissions by

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[10] The "collective name of the states which are united by and under the Constitution". *Hooven & Allison Co.* v. *Evatt*, 324 U.S. 652 (1945)

certified mail. The district court finally acted when I petitioned the United States Court of Appeals for the District of Columbia for a writ of mandamus. I presented said Court of Appeals with proof that the district court had received my petitions and that no action whatsoever had been taken by the district court. The district court's reaction was to convert my D.C. Code § 16-1901 habeas corpus petition into a Title 28 United States Code § 2241 *habeas corpus* application and, under that false pretense, transfer it to the United States District Court for the Northern District of Texas with the intent that it be made to disappear. Why do I say this? Because the district court purportedly transferred the case to Dallas, TX 75242, but did so without transferring the filing fee and without transferring my correct mailing address, having the correct address available (I did a change-of-address notice to the district court shortly after I was released, long before the purported transfer of the case). Apparently, the district court's intent is that the case, once transferred, be dismissed for lack of a filing fee. The notices of deficiency will be mailed to an obsolete address where I won't receive them. This strategy of the district court has the additional feature that such a transfer does not appear to be appealable, leaving me basically without a remedy other than putting the United States Court of Appeals for the District of Columbia on notice of the district court's actions, hoping that the justices thereof will intervene. So, I peppered the United States Court of Appeals for the District of Columbia with various requests for judicial notice, reporting the district court's actions that were

contrary to the law and to proper procedure. I even asked the United States Court of Appeals for the District of Columbia to issue its own petition for writ of habeas corpus. Believe it or not, despite the fact that the Federal Rules of Evidence[11] say that when judicial notice is requested and the court is supplied with the necessary information it is mandatory that such notice be taken by the court, the United States Court of Appeals for the District of Columbia actually "dismissed" my requests for judicial notice saying that they were "moot". Said Court of Appeals also dismissed my petition for writ of habeas corpus without comment.

The statute itself, i.e., D.C. Code § 16-1901, is not that difficult to understand, even for a layman like me. If I present facts that establish a prima facie case that the restraint from my lawful liberty is illegal and improper then the court "shall" issue the writ of habeas corpus. By not responding to my D.C. Code § 16-1905 demand by providing me with a true copy of his warrant of commitment or detainer to hold me prisoner, the respondent established the prima facie case that is supposed to trigger the issuance of the writ of habeas corpus by the district court as a matter of law.

Yet, when presented with this prima facie case, first, the district court stonewalled my petition for months, then after light was shone on the district court's nonfeasance by my mandamus petition to the respective court of appeals, Judge Huvelle chose to commit intrinsic fraud rather than to just stay within

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[11] FRE Rule 201(d)

the boundaries of the applicable law by stating in her transfer order that I had presented an application for writ of *habeas corpus* under 28 U.S.C. § 2241 when my petition vehemently denied any claims under the United States Code, just as this one does. As if that weren't bad enough, Judge Huvelle executed the purported transfer of the case in such a way so as to guarantee its dismissal without me ever knowing or being able to do anything about it. As I already stated, she purportedly transferred the case, but without the filing fee and without the correct mailing address, for the purpose of causing it to be dismissed for failure to pay a filing fee. By failing to transfer the correct mailing address I would be prevented from receiving the deficiency notices. Pretty clever, eh?

In addition to the requests for judicial notice that I sent to it, the United States Court of Appeals for the District of Columbia was also asked to issue its own writ of habeas corpus based on the same facts as those presented to the district court. Said petition was dismissed without explanation and my requests for judicial notice were "dismissed" as "moot".

So, this court wants me to show "exceptional circumstances" in order that the writ of habeas corpus (Rule 20.4) be granted. I find that the breach of the integrity of the judicial process exhibited by the lower courts in this case constitutes the "exceptional circumstances" that this court requires for the issuance of the writ requested herein. The district court didn't grant the writ of habeas corpus as it was supposed to do according to the D.C. Code, nor did the district court deny the writ so that I could

appeal. Instead, the district court did something totally off-the-wall: it turned my petition into something wholly different without any lawful authority whatsoever and over my express protests, and then put the case on ice. The United States Court of Appeals for the District of Columbia, rather than taking the high road and correcting the acts of the lower court, instead chose to ratify Judge Huvelle's actions by not doing anything and by purportedly dismissing my requests for judicial notice as "moot", which I guess is their way of saying that they don't want the liability that attaches to misprision. Should this court ignore the fact that the taking of judicial notice is mandatory under the circumstances in which the United States Court of Appeals for the District of Columbia was presented with said requests for judicial notice? I don't think so.

When the lower courts connected to this case actively and blatantly refused to stay within the scope of the law and sought to disavow responsibility by conveniently transferring the case under false pretenses and "dismissing" evidence that is explicitly mandated by the rules of evidence to be admitted, that constitutes misconduct of the most egregious kind. I hope that this court will agree that such misconduct constitutes the exceptional circumstances that will prompt this court to issue the writ of habeas corpus (Rule 20.4) that I am petitioning for.

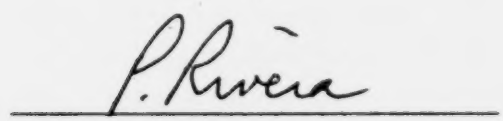
PRAYER

Please issue the writ of habeas corpus (Rule 20.4) that I have petitioned for herein. I need to get back to work.

Thank you.

VERIFICATION

I solemnly affirm in the presence of the below-named Notary Public that the foregoing facts are true and correct, with God[12] as my witness.



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[12] Jehovah, the Father; Jesus Christ, the Son; and the Holy Ghost.

Affirmed and subscribed before me by the man known by me to be Pedro Iván Rivera on this tenth day of June, 2002 A.D.

Affidavit number: 53,854

Notary Public in and for
the Commonwealth of Puerto Rico